

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

CRWP No.10784 of 2022 (O&M)

Date of Decision: 31.07.2023

Manjit Kumari

...Petitioner

Versus

State of Punjab & Ors.

...Respondents

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Ms. Neeraj Chandel, Advocate,
for the petitioner.

Mr. Aditya Kapoor, AAG, Punjab,
for respondents No.1 to 4.

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MEENAKSHI I. MEHTA, J.(ORAL)

The petitioner herein seeks the indulgence of this Court for the issuance of the directions to official respondents No.3 and 4 to register the FIR against private respondent No.5 and to protect her (petitioner's) life and liberty and also not to falsely implicate her in any case at the instance of the said private respondent.

2. Short Reply has already been filed on behalf of respondents No.1 to 4 (by way of the affidavit of the Deputy Superintendent of Police, Circle Rural, District Patiala), along-with Annexures R-1/T and R-2/T and their vernacular versions Annexures R-1 and R-2.

3. I have heard learned counsel for the petitioner as well as learned State counsel in the present petition and have also gone through the file carefully.

4. Learned counsel for the petitioner contends that the allegations levelled by the petitioner against respondent No.5 constitute the cognizable offences but the police officials are not registering the FIR/criminal case in view thereof, despite the fact that the Constitution Bench of the Apex Court has categorically observed in **Lalita Kumari Versus Government of U.P. and others, {Writ Petition (Criminal) No.68 of 2008, decided on 12.11.2013}** that “*the registration of the FIR is mandatory under Section 154 CrPC if the information discloses commission of a cognizable offence*” and it being so, the official respondents be directed to register the criminal case/FIR against respondent No.5.

5. However, I do not find the afore-raised contention to be tenable at all because in **Lalita Kumari (supra)**, the issue that had arisen for the consideration was “*whether a police officer was bound to register a First Information Report (FIR) upon receiving any information relating to the commission of a cognizable offence, under Section 154 of the Code of Criminal Procedure, 1973 or the police officer had the power to conduct a preliminary inquiry in order to test the veracity of such information before registering the same?*”

6. Whereas, in the case in hand, the question that has emanated for the adjudication is “*as to whether this Court is required to issue any direction for the registration of the criminal case/FIR in case the police authorities do not register the same.*”

7. The above-referred question stands answered in the judgment handed down by the three Judges’ Bench of Hon’ble the Supreme Court in

M.Subramaniam and another Versus S.Janaki and another (Criminal Appeal No.102 of 2011, decided on 20.03.2020), wherein the direction given by the High Court for the registration of the FIR had been set-aside, while relying upon an earlier verdict of the Apex Court rendered in **Sakiri Vasu Versus State of U.P. (2008) 2 SCC 409**, to the effect that “*if a person has a grievance that his FIR has not been registered by the police or the same having been registered, proper investigation is not being done, then the remedy of the aggrieved person is not to go to the High Court but to approach the Magistrate concerned under Section 156(3) Cr.P.C.*”

8. Moreover, in **Aleque Padamsee and others Versus Union of India and others (Criminal Writ Petition Nos.11-15 of 2003, decided on 18.07.2007)**, the Hon’ble Supreme Court has also observed that “*in case of non-registration of the FIR by the police, the aggrieved party can lay a complaint before the Magistrate under Sections 190 and 200 Cr.P.C and the writ petition seeking direction to the police to register the case is not to be entertained.*” In the light of these observations, it is quite explicit that the instant petition, as preferred for seeking the issuance of direction to the official respondents No.3 & 4 to register the FIR against respondent No.5, is not maintainable before this Court.

9. So far as the prayer of the petitioner to restrain the official respondents from implicating her in any false case at the instance of respondent No.5 is concerned, such a blanket direction cannot be issued and further, as regards her prayer for the protection of her life and liberty, she may move the application to respondent No.3-Commissioner of Police,

Ludhiana, exclusively praying therein for the protection of her life only and in case any such application is moved by her, then the said respondent shall consider and decide the same in accordance with law, in the given set of the facts and circumstances of the matter.

10. It is further clarified that the observations made in the preceding para, shall not be construed to be a shield to the petitioner against any legal action, civil or criminal, as already initiated or intended/contemplated to be initiated against her by the competent authority/person on account of the facts narrated in the present petition.

11. Resultantly, the petition in hand stands partly dismissed so far as it pertains to the prayer of the petitioner for issuing the directions to the official respondents to register the FIR/criminal case against respondent No.5 and also to refrain from falsely implicating her in any case at the instance to the said private respondent and as regards the relief sought by her (petitioner) qua the protection of her life and liberty, the instant petition partly stands disposed of in terms of the observations as made in para No.9 of this order.

31st July, 2023
seema

(MEENAKSHI I. MEHTA)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>